

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CUSTOMERS BANK,

Plaintiff,

v.

FRED RAPPAPORT, *et al.*,

Defendants.

CIVIL ACTION NO. 15-6145

ORDER

AND NOW, this 5th day of October, 2016, after considering the plaintiff's motion to dismiss without prejudice (Doc. No. 119), and the defendants' oppositions to the motion (Doc. Nos. 123, 124, 125), and the plaintiff's reply (Doc. No. 128); and after considering the renewed motion for sanctions filed by the defendant Elizabeth Halbreiner ("Halbreiner") (Doc. No. 126); and after hearing argument on October 3, 2016; and for the reasons set forth on the record at the time of oral argument; accordingly, it is hereby **ORDERED** as follows:

1. The plaintiff's motion to dismiss without prejudice (Doc. No. 119) is **GRANTED**, and the third amended complaint (Doc. No. 94) is **DISMISSED WITHOUT PREJUDICE**;¹

2. If the plaintiff refiles its Civil RICO claim against any of the defendants, the plaintiff shall reimburse any such defendant for costs and attorney's fees incurred in this matter prior to the court's grant of the plaintiff's motion to dismiss without prejudice (Doc. No. 119);

3. Halbreiner's renewed motion for sanctions (Doc. No. 126) is **DENIED AS MOOT**;²

¹ The court takes no position regarding whether this dismissal of the third amended complaint without prejudice is either a favorable or unfavorable termination of the plaintiff's case.

4. The defendants' motions to dismiss the third amended complaint (Doc. Nos. 98, 99, 100, 101, 102) are **DENIED AS MOOT**;

5. The clerk of court is **DIRECTED** to mark this matter as **CLOSED**.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'E. G. Smith', written over a horizontal line.

EDWARD G. SMITH, J.

² Halbreiner's counsel sent the court a letter indicating that Halbreiner wished to withdraw her renewed motion for sanctions, thus rendering the motion moot. A copy of the letter is attached hereto.

MEYERSON & O'NEILL

ATTORNEYS AT LAW
1700 MARKET STREET - SUITE 3025
PHILADELPHIA, PA 19103
(215) 972-1376
FAX: (215) 972-0277
Website: www.meyersonlawfirm.com

JACK A. MEYERSON*
email: jmeyerson@meyersonlawfirm.com

DEBORA A. O'NEILL*
email: doneill@meyersonlawfirm.com

*Admitted in Pennsylvania and New Jersey
Of Counsel to Studio Legale IURA in Bologna, Italy

JAMES A WELLS
email: jwells@meyersonlawfirm.com

EDWARD SKIPTON*
email: eskipton@meyersonlawfirm.com

October 4, 2016

VIA EMAIL: Chambers_of_Judge_Edward_G_Smith@paed.uscourts.gov

Honorable Edward G. Smith
United States District Court
Eastern District of Pennsylvania
Holmes Building, 4th Floor
101 Larry Holmes Drive
Easton, PA 18042

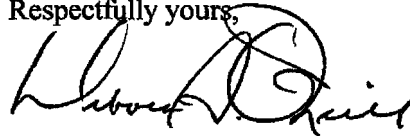
Re: Customers Bank v. Fred Rappaport et al
Docket No. 2:15-cv-06145

Dear Judge Smith:

We are sending this letter to advise Your Honor that Elizabeth Halbreiner wishes to withdraw her pending Rule 11 Motion for Sanctions and pursue collection of all of her damages against Customers Bank and its attorneys in the pending state court action. As we relayed to the Court and counsel during the conference call yesterday, Ms. Halbreiner has incurred significant attorneys fees and expenses in defense of Customers Bank's alleged RICO claims which are now dismissed. Ms. Halbreiner prefers to avoid the additional expense associated with simultaneous litigation in two forums.

We appreciate the Court's time and consideration devoted to these issues. If the Court prefers that we file a formal withdrawal of the motion on the docket, please let us know.

Respectfully yours,



Jack Meyerson
Debora A. O'Neill

cc: All counsel of record via email